

Presentation to the Native American Graves Protection and Repatriation Act Review Committee, May 10, Santa Fe, NM.

Update on Implementation by the Peabody Museum of Archaeology and Ethnology, Harvard University.

Patricia Capone, Associate Curator

Thank you for the opportunity to present this update.

As you know, the Peabody Museum has committed significant resources, expertise and attention over many years in a good faith effort to implement NAGPRA and to cultivate the respectful relationships necessary to this effort. The Museum has partnered with Native American communities and other institutions across the United States to work toward successfully achieving mutual goals of education and research. Our museum considers the experience to be a privilege; the process has benefited each of our missions of education, research, and developing relationships with indigenous communities and scholars.

The Peabody Museum is responsible for NAGPRA implementation for one of the largest and broadest collections subject to the Act. We consult on human remains and funerary objects from nearly every state. Our museum already has completed requirements to enable repatriation of approximately 3,137 individual human remains and over 10,000 funerary objects. This represents approximately 13% of the total number of human remains and funerary objects that are available for repatriation nationally. Of these culturally affiliated collections, physical repatriation has been completed for the following: 2,934 individual human remains, 3,886 funerary objects, 1 sacred object, 73 objects of cultural patrimony, and 18 objects that are both sacred objects and objects of cultural patrimony.

Consultations with Native American tribes take several forms: visits to the Museum; correspondence; web consultation through the Museum collections database on-line; and arrangements for physical repatriations. The Museum continues to utilize its collections website as a means of

presenting collections for NAGPRA consultation. Currently, there are 37 web lists on the Peabody Museum Collections Website for consultation with groups. Since the last NAGPRA Review Committee Meeting in November, the Peabody welcomed or travelled to four NAGPRA consultation visits.

The Museum continues to consult with numerous tribes on possible sacred objects and objects of cultural patrimony. We anticipate that physical repatriations of these cultural items will take place this year.

Physical repatriation events continue to take place with four during the past year and another set for next month. Since the last meeting of the Review Committee one new *Federal Register* notice was published, which enabled the repatriation of two individual human remains .

Toward being responsive to the focus of your discussions on Federal agency collections in non-federal repositories during this meeting, we will share the following status of implementation. Approximately 350 human remains at the Peabody Museum may be under the control of Federal agencies. Of these, Federal Register Notices enable the repatriation of 36 individual human remains with 8 still in the possession of the Museum.. The remainder are either culturally unidentifiable Native American remains and subject to section 10.11 consultations being initiated or the ownership status of the remains is under discussion. Most of these federal ownership situations came to our attention at the time of inventorying under NAGPRA regulations section 10.9. During the course of research on provenience and provenance as required under the 10.9 inventory process, the Museum reached out to Federal agencies if the documentation indicated the possibility of federal control. In these cases the Museum provided copies of documentation to begin a dialogue with the agencies toward discerning what entity has control. In some other cases Federal agencies initiated contact with the Museum as they similarly worked through collections documentation for NAGPRA which led to the Peabody Museum. In some instances, once Federal control has been formally acknowledged by an agency and the museum,

Federal agencies have contracted with the museum to perform or facilitate some aspect of NAGPRA implementation. For a number of human remains (approximately 175), the Museum awaits Federal agency acknowledgement of control of collections.

The Peabody began implementing new NAGPRA regulations 43 CFR 10.11 Final rule-Disposition of Culturally Unidentifiable Human Remains, which became effective on May 14, 2010. The Museum allocated resources for new staff to join the Museum toward implementing NAGPRA in partial response to the added requirements. In FY 2010, the Museum initiated consultations (upon request) with six tribes under the new regulations. Since July this number has almost tripled. The Museum received a two year NAGPRA consultation/documentation grant to implement the new regulations for culturally unidentifiable human remains from eastern Massachusetts. The Museum applied for another consultation grant for FY2012 for another area.

The museum continues to be concerned about several aspects of the regulation for section 1.11, culturally unidentifiable human remains. There are poorly defined limits to discussions that must take place and the parties who must take part in the discussions. The cost of conducting these large-scale and open-ended discussions is not yet clear but has potential to be great, not only for museums and federal agencies, but for the Review Committee, which is tasked with resolving disputes. We also believe the time for implementing this process has been vastly underestimated. All of the factors described above are likely to contribute to an atmosphere of confusion, delay and expense for Tribes and institutions. This will encourage short-cutting, and ultimately transfers of human remains which were likely not intended by Congress. It is important that a process be well structured and better defined, so that we may avoid a splintered approach to dispositions. Increases in the NAGPRA Grants program and the Grant's program administration are warranted to support the additional requirements of this regulation. If substantive changes to any of NAGPRA's regulations are under consideration we

that we hope that our current and past NAGPRA efforts will be taken into consideration and that we will have full opportunity to comment and participate in any review.

Regarding the March 2, 2012 Federal Register Notice regarding NAGPRA's information collection, in our experience, the activities referenced in this notice do not capture even a small percentage of our compliance activities. The time estimates and staff cost presented in the table are not representative of the information collection costs to either Museums or to Tribes. In our view the time and effort required for information collection requires substantially greater resources than the estimate in the Federal Register. Further, we believe that reckoning the cost of NAGPRA implementation should be conceived of more broadly. Consultation, curation agreements for collections prior to repatriation, and physical repatriations, are several of the NAGPRA activities which require considerable resources and are not represented by "information collection."

The Peabody continues to refine policies and procedures for sensitive collections, and to strive for improved approaches to expanding accessibility to Native American communities, whether through NAGPRA or other means. Additionally, as a university museum, the Peabody responds to frequent informational inquiries from students or other interested parties. Again this year, the Museum is partnering with the Harvard University Native American Program and local Native American communities to continue our excavations and research on the Harvard Indian College of 1655 and the history of Native American education at Harvard. Additionally we dedicated significant public exhibit space to a project which grew from a NAGPRA consultation. The project features a visible workspace for collaborative conservation of watercraft collections from Alaska with Alaska Native consultants and museum. At the Peabody Museum, we are grateful for the relationships we have developed that have so broadly benefited the institution, and we look forward to new ways of understanding through the NAGPRA process.